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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

Wild Animals in Travelling Circuses (Wales) Bill

Date of issue: 1 October 2018

Action required: Responses by 26 November 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview

This consultation seeks views on the draft legislative proposals to ban the use of wild animals in travelling circuses in Wales. We are not seeking views on whether the use of all animals in circuses should be banned, or whether the use of animals in any other form of entertainment should be banned. There are no circuses with wild animals based in Wales but they do visit.

How to respond

The closing date for responses is midnight on **28 November 2018**.

Responses can be submitted using the online form.

Alternatively, please send written responses a to:

email:

WildAnimalsInTravellingCircusesBill@gov.wales

or

Wild Animals in Travelling Circuses (Wales) Bill Team
Office of the Chief Veterinary Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

This consultation document can be accessed from the Welsh Government website:

<http://beta.gov.wales/consultations>

Contact details

For further information, please contact:

Wild Animals in Travelling Circuses (Wales) Bill Team
Office of the Chief Veterinary Officer
Welsh Government
Cathays Park
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The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data. In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

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Data Protection Officer:
Welsh Government
Cathays Park
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CF10 3NQ

e-mail:

Data.ProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
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Tel: 01625 545 745 or
0303 123 1113

Website: <https://ico.org.uk>

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Annex 1 - Summary of the impacts

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Foreword by Cabinet Secretary for Energy, Planning and Rural Affairs

Animal welfare is a priority for the Welsh Government and the Wales Animal Health and Welfare Framework Group. We are committed to improving standards of animal welfare in Wales.

Last year I launched a public consultation on the introduction of a licensing or registration scheme for Mobile Animal Exhibits (MAEs). I did so in response to concerns the welfare needs of some animals kept by MAEs, including circuses, cannot be met in a travelling environment. I also asked for views on banning the use of wild animals in circuses.



Work on developing a licensing scheme for MAEs is now underway. The development of the scheme reinforces our commitment to ensuring the highest welfare standards for all animals kept in Wales.

There was overwhelming support from respondents to the consultation for a ban on the use of wild animals in circuses. Whilst there are no circuses using wild animals based in Wales, they do visit, and each time they do there are renewed calls to ban the practice.

In February this year, I announced I was exploring opportunities to bring forward legislation to ban the use of wild animals in circuses, learning from the recent scrutiny¹ of the Wild Animals in Travelling Circuses (Scotland) Act 2018, particularly discussion of the welfare and ethical arguments for a ban. In July, the First Minister for Wales, Carwyn Jones AM, announced that a Bill to ban the use of wild animals in travelling circuses will be brought before the National Assembly over the next 12 months.

Many of the calls for a ban on the use of wild animals in travelling circuses focus on the perceived animal welfare issues and there is a strong body of opinion that the welfare needs of wild animals in travelling circuses cannot be met.

However, there are wider ethical considerations that go beyond the question of whether the welfare of animals kept in travelling circuses is compromised. The use of wild animals in circuses is increasingly viewed as an outdated notion and ethically unacceptable. One of the strategic outcomes within the Wales Animal Health and Welfare Framework Implementation Plan is “*animals in Wales have a good quality of life*”.² It could be argued wild animals in travelling circuses, given the environment in which they are placed, cannot have a good quality of life, or at least not a life that is any way in-keeping with that lived by free-living members of their species.

¹ Scottish Parliament, Parliamentary Business, Wild Animals in Travelling Circuses (Scotland) Bill <<http://www.parliament.scot/parliamentarybusiness/Bills/104493.aspx>>

² Welsh Government, Wales Animal Health and Welfare Framework, Implementation Plan 2017-18 <<https://beta.gov.wales/sites/default/files/publications/2018-01/animal-health-and-welfare-framework-implementation-plan-2017-to-2018.pdf>>

I am concerned about the impact seeing wild animals perform unnatural tricks, purely for entertainment, has on people's attitudes towards animals, particularly the developing attitudes of children and young people. Animals should not be objectified or perceived as commodities for our entertainment, rather as sentient beings with their own unique sets of needs. I want children and young people in Wales to develop respectful and responsible attitudes towards animals and I am particularly interested in the views of children and young people on our proposals.

I would like your views on the draft Wild Animals in Travelling Circuses (Wales) Bill which aims to address these ethical concerns by banning the use of wild animals in travelling circuses in Wales. Work on developing a licensing scheme for MAEs will complement this approach.

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

Lesley Griffiths AM
Cabinet Secretary for Energy, Planning and Rural Affairs

Section 1: Background

1.1 Introduction

The use of wild animals in travelling circuses generates strongly held opinions and a considerable degree of public and political interest.

In July 2018, the First Minister for Wales, Carwyn Jones AM, made an Oral Statement on the Welsh Government's Legislative Programme, announcing the Bills that will be brought before the National Assembly over the next 12 months. Included was a Bill to ban the use of wild animals in travelling circuses.

This consultation seeks views on the draft legislative proposals to ban the use of wild animals in travelling circuses in Wales.

1.2 The current situation

There are no circuses with wild animals based in Wales, but they do visit. Two circuses, Circus Mondao and Peter Jolly's Circus, regularly visit Wales; both have visited this year. They are both based in England and licensed under The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012.³ The Regulations require all operators of travelling circuses in England, which use wild animals, to satisfy a number of conditions relating to animal welfare standards and record-keeping.

According to a Department for Environment, Food and Rural Affairs (Defra) Post-Implementation Review of the Regulations, Circus Mondao and Peter Jolly's Circus have contained a total of between 16 and 28 wild animals at any one time since the Regulations came into force in 2013.⁴ Species kept include zebra, camel, zebu (a type of cattle), reindeer, raccoon, fox and macaw, in addition to domestic species.

The Regulations in England expire on 19 January 2020. The UK Government does not intend to renew the Regulations but to ensure a legislative ban on the use of wild animals in travelling circuses is in place by the time the Regulations expire.

It is presently possible for circuses from mainland Europe to visit Wales.⁵ In many European countries the tradition of the travelling circus remains strong; both the number and the range of wild animals involved is greater than in the United Kingdom. Some of these circuses still use species traditionally associated with circuses such as elephants, lions and tigers.

The use of wild animals in travelling circuses has been banned in Scotland. The Wild Animals in Travelling Circuses (Scotland) Act 2018 came into force on 28 May 2018.⁶

³ The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012
<<https://www.legislation.gov.uk/ukdsi/2012/9780111527832/contents>>

⁴ Defra, The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012: Post Implementation Review 2018, January 2018 <<https://www.gov.uk/government/publications/the-welfare-of-wild-animals-in-travelling-circuses-england-regulations-2012-post-implementation-review>>

⁵ Defra, Register a travelling circus or animal act to travel in the EU
<<https://www.gov.uk/guidance/register-a-travelling-circus-or-animal-act-to-travel-in-the-eu>>

⁶ The Wild Animals in Travelling Circuses (Scotland) Act 2018
<<https://www.legislation.gov.uk/asp/2018/3/contents>>

Other European countries which have implemented bans include the Republic of Ireland, Austria and Greece. A number of other countries have banned the use of certain species and there are many where local and regional restrictions apply.

In Wales, some Local Authorities prohibit circuses that use wild animals from performing on Local Authority land.

Further information on the use of wild animals in circuses is available at Annex 1.

1.3 Calls for a ban

We regularly receive calls from the general public and third sector organisations to introduce a ban on the use of wild animals in circuses. Concerns not only focus on the perceived animal welfare issues, but also on whether it is ethically acceptable to make wild animals travel, live in temporary accommodation and perform for our entertainment.

Petitions calling for a ban on the use of wild animals in circuses in Wales have twice been considered by the National Assembly for Wales' Petitions Committee:

- A petition submitted by RSPCA Cymru in October 2015 called for a ban on the use of wild animals in circuses.⁷
- A petition submitted by Linda Evelyn Joyce Jones calling for a ban on the use of wild animals in circuses in Wales was considered by the Petitions Committee in January 2018⁸ and was debated in Plenary on 7 March 2018⁹.

In 2017 we consulted on the introduction of a licensing or registration scheme for Mobile Animal Exhibits (MAEs), including circuses.¹⁰ We also asked for views on banning the use of wild animals in travelling circuses. There was overwhelming support from respondents for a ban and the Cabinet Secretary for Energy, Planning and Rural Affairs, Lesley Griffiths AM, committed to exploring opportunities to bring forward legislation to ban the use of wild animals in travelling circuses. The responses to the consultation echoed those submitted to previous consultations by the UK and Scottish Government's on this subject:

- In 2009 Defra consulted on the use of wild animals in travelling circuses. Over 95% of respondents felt that it was not acceptable to use any species of wild animal in travelling circuses.¹¹
- The Scottish Government consulted on proposals to ban the use of wild animals in travelling circuses on ethical grounds in 2014. Respondents were

⁷ NAW, P-04-653 Ban the Use of Wild Animals in Circuses in Wales

<<http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=13740&Opt=0>>

⁸ NAW, P-05-796 Calling on the Welsh Government to Ban The Use of Wild Animals in Circuses in Wales

<<http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=20656&Opt=0>>

⁹ NAW, Plenary (7 March 2018) <<http://record.assembly.wales/Plenary/4911>>

¹⁰ Welsh Government Consultations, Mobile Animal Exhibits <<https://beta.gov.wales/mobile-animal-exhibits>>

¹¹ The National Archives, Defra, Consultation on the use of Wild Animals in Circuses, March 2010

<<http://webarchive.nationalarchives.gov.uk/20101109175937/http://www.defra.gov.uk/corporate/consult/circus-wild-animals/>>

overwhelmingly in favour of a ban, with, amongst other findings, almost 96% of the view that there are no benefits to having wild animals in travelling circuses.¹²

1.4 The welfare of wild animals in travelling circuses

There are no specific regulations for the welfare of wild animals in travelling circuses in Wales but their welfare does fall under the scope of the following, wider legislation:

The **Animal Welfare Act 2006**¹³ makes it a criminal offence for any person responsible for an animal, including all wild animals in travelling circuses, to fail to provide for their animal's welfare needs. Under section 9 of the 2006 Act, a person responsible for an animal has a duty to provide for that animal's needs, which include: its need for a suitable environment; its need for a suitable diet; its need to be able to exhibit normal behaviour patterns; its need to be housed with, or apart from, other animals; and its need to be protected from any pain, suffering, injury or disease. The 2006 Act also makes it a criminal offence to cause an animal any unnecessary pain or suffering.

The **Welfare of Animals (Transport) (Wales) Order 2007**¹⁴ (made under the Animal Health Act 1981) makes it an offence to transport any animal in a way which causes, or is likely to cause, injury or unnecessary suffering to that animal.

The **Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012** (made under the Animal Welfare Act 2006) require all operators of travelling circuses in England which use wild animals to be licensed.¹⁵ There are a number of conditions circus operators have to comply with including the submission and maintenance of tour itineraries detailing the locations of the circus and its animals at all times. Licensed circuses receive regular inspections to check compliance with the conditions of the licence. The Regulations expire on 19 January 2020 and the UK Government does not intend to renew them.

The **Performing Animals (Regulation) Act 1925**¹⁶ requires anyone who trains or exhibits animals to register with a Local Authority, stating details of the animals involved.

1.5 Introducing a ban on welfare grounds

There is substantial public opinion that there is a need to ban the use of wild animals in travelling circuses in order to safeguard their welfare.

The Animal Welfare Act 2006 makes it a criminal offence for any person responsible for an animal to fail to provide for the animal's welfare (section 9). Section 12 of the Act provides powers to make regulations to promote animal welfare. Section 12(1) provides that "*The appropriate national authority may by regulations make such provision as the*

¹² Scottish Government, Should the use of wild animals in travelling circuses be banned in Scotland?, Consultation Analysis, May 2015 <<https://www.gov.scot/Resource/0048/00480385.pdf>>

¹³ Animal Welfare Act 2006 <<https://www.legislation.gov.uk/ukpga/2006/45/contents>>

¹⁴ Welfare of Animals (Transport) (Wales) Order 2007 <<http://www.legislation.gov.uk/wsi/2007/1047/contents/made>>

¹⁵ Defra, Travelling circus with wild animals: get a licence <<https://www.gov.uk/guidance/travelling-circus-with-wild-animals-get-a-licence>>

¹⁶ Performing Animals (Regulation) Act 1925 <<https://www.legislation.gov.uk/ukpga/Geo5/15-16/38>>

authority thinks fit for the purpose of promoting the welfare of animals for which a person is responsible, or the progeny of such animals.”

Welsh Ministers would need to be satisfied there is compelling scientific evidence demonstrating that the welfare of animals kept in travelling circuses is compromised to rely on the delegated powers in section 12 of the 2006 Act to introduce a ban.

The Radford Report

During debates on the Animal Welfare Bill in 2006 the then UK Government agreed, subject to there being sufficient scientific evidence, to bring forward a ban using delegated powers provided in the Animal Welfare Bill (now 2006 Act) on the use of certain non-domesticated species in travelling circuses. The Circus Working Group was established and an academic lawyer, Mike Radford, was appointed Chair. The remit of the Working Group was to provide, and consider, evidence relating to the transportation and housing needs of non-domesticated species. These were considered to be the factors that differentiated wild animals in circuses from wild animals kept in other situations e.g. zoos.

The Working Group considered evidence provided by both animal welfare organisations and the circus industry. The Chairman's report (the 'Radford report'¹), published in October 2007, concluded that there was not sufficient scientific evidence to justify a ban on wild animals in travelling circuses. It also concluded that there was little evidence to demonstrate the welfare of animals kept in travelling circuses is any better or worse than that of animals kept in other captive environments.

Issues relating to the training and performance of non-domesticated circus animals were expressly omitted from the Working Group's terms of reference (these matters were being considered by a separate working group concerned with the training and performance of animals generally). In his report, the Chairman recognised any duplication of effort would be undesirable but commented *“One can only speculate whether the substance of this Report would have been materially different if the Working Group had looked at the full picture.”*

Despite his conclusions, the Chairman did state that the status quo is not an option, recognising that expectations have been raised that the Government will do something; the circus industry is exceptional in that the use of animals in most other commercial contexts is generally subject to specific regulation; the present state of uncertainty confronting circuses requires resolution; the present situation is acting against the interests of the animals involved (it has been suggested that circus operators may be reluctant to invest in their facilities unless they have sufficient confidence that the use of wild animals will remain lawful), and; there is support from all sides of the debate for reform.

The Harris Review

In response to the 2015 RSPCA Cymru petition, the then Deputy Minister for Farming and Food, Rebecca Evans AM, announced an independent review of the evidence on the welfare of animals in travelling and non-travelling circuses. Professor Stephen Harris was commissioned to undertake the review. Unlike the Radford Report, the review by Harris *et al* (the 'Harris Review'¹), published in April 2016, considered the collective effect of all aspects of management and the environment on the welfare of wild animals in travelling circuses and mobile zoos. The rationale for this was that while one aspect of management may be interpreted as promoting good welfare, others may not, so the cumulative effect may be poor welfare overall.

Harris *et al* identified and contacted experts and organisations for their views on the welfare of wild animals in travelling circuses. This was done via a two-stage questionnaire. Experts were classified into five groups based on their personal expertise.

The Review makes a number of conclusions. Harris *et al* reported that all five groups of experts *“agreed that complex, stimulating and environmentally enriched environments promote good welfare in captive wild animals, and the interaction between enclosure size and complexity leads to species-specific welfare benefits. Enrichment is the preferred means of tackling the underlying causes of abnormal behaviour patterns since it gives animals choice. However, in travelling circuses and mobile zoos, the provision of environmental enrichment, particularly control-orientated enrichment, is likely to be extremely limited or non-existent due to the need to maintain portability, ease of handling of the animals and compliance during training sessions.”*

In considering the collective effect of all aspects of management and the environment of wild animals in travelling circuses, including the positive experiences, Harris *et al* concluded they could not find any evidence to suggest that the cumulative experience of periods of performing, being on display and/or being handled balanced a lifetime of close confinement, regular disturbance and minimal choice and control. They went as far as to conclude life for wild animals in travelling circuses *“does not appear to constitute either a ‘good life’ or a ‘life worth living’.”*

Their overriding conclusion was that the welfare needs of wild animals in travelling environments cannot be satisfied to the same extent as within static environments and *“The available scientific evidence indicates that captive wild animals in circuses and other travelling animal shows do not achieve their optimal welfare requirements, as set out under the Animal Welfare Act 2006, and the evidence would therefore support a ban on using wild animals in travelling circuses and mobile zoos on animal welfare grounds.”*

The conclusions of Radford and Harris *et al* are markedly different. They were of course working to different Terms of Reference and Radford recognised his conclusions may have been different had the Working Group been asked to look at the “full picture”.

The UK Government (House of Commons Debate, 1 March 2012)¹⁷ has previously considered that there is insufficient evidence to justify a ban on welfare grounds, and instead proposed to introduce primary legislation to ban the use of wild animals on ethical grounds. The UK Government later set out a more detailed explanation for its view that primary legislation was needed to achieve a lawful ban:

“In October 2007 the report ‘Wild Animals in Travelling Circuses: The Report of the Chairman of the Circus Working Group’ (commonly referred to as the ‘Radford Report’), commissioned by the previous Government, concluded that, in terms of using the delegated powers in the Animal Welfare Act 2006 to introduce a ban, after reviewing the available scientific evidence submitted, ‘there appears to be little evidence to demonstrate that the welfare of animals kept in travelling circuses is any better or worse than that of animals kept in other captive environments’. Therefore, in the absence of any compelling scientific evidence, any attempt to ban the use of an animal using the delegated powers provided by the Animal Welfare Act would fail the test of proportionality, and primary legislation is needed to ‘have any realistic prospect of achieving a lawful ban’.”¹⁸

The UK Government did not introduce primary legislation banning the use of wild animals, instead introducing the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 as an interim measure.

The view that there is insufficient evidence to justify a ban on welfare grounds was echoed by the Scottish Government in its 2014 consultation on proposals to ban the use of wild animals in travelling circuses on ethical grounds in 2014:

“...scientific knowledge by itself does not yet provide relevant, rational and reliable answers to many questions on animal welfare typically raised by the general public. This is compounded when considering the welfare of wild animals in travelling circuses by the fact that there is little directly relevant scientific evidence of any sort.

Within the current scientific and legal context, the welfare status of these animals cannot be conclusively proven to be good or bad in comparison with animals in other situations generally considered to be acceptable. In the absence of sufficient scientific evidence of irredeemable welfare problems within a travelling circus environment, any attempt to ban the use of an animal using the delegated powers provided by the Animal Health and Welfare (Scotland) Act 2006 would fail the test of proportionality.”

Both the UK and Scottish Governments came to their respective positions before publication of the Harris Review.

¹⁷ UK Parliament Website, House of Commons, Oral Answers to Questions (1 March 2012)
<<https://publications.parliament.uk/pa/cm201212/cmhansrd/cm120301/debtext/120301-0001.htm>>

¹⁸ HM Government, Wild Animals in Circuses (April 2013)
<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228862/8538.pdf>

Given the relatively small number of animals involved, it is doubted that the results of any further research would be sufficiently meaningful and robust to better inform the debate.

1.6 Ethical grounds for a ban

There was a time when attending a circus would have been the only opportunity most people had to see exotic wild animals. That is no longer the case, and circuses have been superseded by modern, well-managed zoos where maintaining the highest standard of animal welfare is a priority. Zoos licensed under the Zoo Licensing Act 1981¹⁹ are required to undertake conservation measures and to promote public education and awareness in relation to conservation, particularly by providing information about the species exhibited and their natural habitats.^{20 21} The same is not required of circuses and it is questionable if such requirements could ever be met in a circus environment. In addition to the opportunities to see wild animals in zoos, world class wildlife documentaries are engendering an increased respect for the intrinsic value of wild animals in their natural environments.

The use of wild animals in travelling circuses raises concerns around animal dignity. It is increasingly difficult to justify keeping wild animals in travelling circuses and requiring them to perform unnatural tricks.

We recognise there is a strong body of opinion that the welfare needs of wild animals in circuses cannot be met. Whilst there may not be conclusive evidence that welfare is compromised to a greater extent in travelling circuses than in any other 'artificial' environment, the Welsh public and third sector organisations have overwhelmingly lobbied for this practise to be banned.

With the coming into force of the Wales Act 2017, Welsh Ministers now have the power to introduce primary legislation to ban the use of wild animals in travelling circuses in Wales on ethical grounds.

1.7 The proposed new legislation

The draft Wild Animals in Travelling Circuses (Wales) Bill makes it an offence for a wild animal to be used in a travelling circus. The proposals within the Bill are set out in more detail in Section 2 along with the consultation questions. See Annex 1 which considers some of the impacts of introducing this legislation. A comprehensive assessment of the impacts of banning the use of wild animals in travelling circuses in Wales will be completed following consultation.

The Bill will not affect the use of domesticated animals in circuses, nor will it prevent wild animals being used for entertainment in other settings. There is concern the welfare

¹⁹ Zoo Licensing Act 1981 <https://www.legislation.gov.uk/ukpga/1981/37/pdfs/ukpga_19810037_en.pdf>

²⁰ Defra, Secretary of State's Standards of Modern Zoo Practice <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69596/standards-of-zoo-practice.pdf>

²¹ Some zoos don't need a licence because of the small number of animals, or the type of animal, kept in them and are therefore exempt from the requirements of the Zoo Licensing Act 1981.

needs of some animals kept by other Mobile Animal Exhibits (MAEs) cannot be met in a travelling environment. Our plans to address these concerns are set out below.

1.8 Mobile Animal Exhibits

Animal welfare is a priority for the Welsh Government and the Wales Animal Health and Welfare Framework Group.²² We take animal welfare seriously and expect others to do so too.

MAEs are diverse and include travelling falconry and hawking displays, exotic pets taken into schools for educational purposes, reindeer at Christmas events and of course, travelling circuses. There is no standard licensing regime or requirement for routine inspection.

A data capture survey, carried out by Local Authorities at the beginning of 2017, revealed there to be at least 53 MAEs based in Wales. A cross-section of these MAEs were selected for interview and all expressed a wish for the industry to be regulated in some way. They felt this would ensure the welfare of the animals involved and give their businesses additional credibility.

In July 2017 we launched a 12 week public consultation on the introduction of a licensing or registration scheme for MAEs. The majority of respondents to the consultation favoured licensing over registration and we are now developing a licensing scheme for MAEs. The introduction of a licensing scheme will provide for checks to be made to ensure good welfare standards are maintained and that animals are exhibited in a way that encourages respectful and responsible attitudes towards all species.

This is not being done in isolation; we are engaging with stakeholders and enforcement agencies and will undertake a separate public consultation in due course. We are also working collaboratively with our counterparts in the other Administrations. This approach will deliver a scheme which will have lasting impact on the welfare of animals used in MAEs and on the attitudes of future generations of animal owners in Wales.

²² Welsh Government, Wales Animal Health and Welfare Framework Group
<<https://beta.gov.wales/wales-animal-health-and-welfare-framework-group>>

Section 2: Consultation Questions

2.1 General policy

The policy objective is to introduce primary legislation to ban the use of wild animals in travelling circuses in Wales. We have explained in this consultation document why we believe the use of wild animals in travelling circuses should be banned.

Question 1: Do you agree with our proposal to introduce legislation that would make it an offence for a wild animal to be used in a travelling circus?

2.2 Children and young people

We formally adopted the United Nations Convention on the Rights of the Child (UNCRC) in 2004. Our work is based on delivering the core aims of the UNCRC.²³

We are concerned about the impact seeing wild animals perform in travelling circuses, purely for entertainment, has on people's attitudes towards animals, particularly the developing attitudes of children and young people.

Question 2: Do you agree banning the use of wild animals in travelling circuses will have a positive impact on the attitudes of children and young people towards animals? Do you have any evidence to support your view that you would like to share with us?

2.3 Economic impacts

The economic impacts of banning the use of wild animals in travelling circuses, on the circuses and the communities they visit, are difficult to quantify and we would welcome evidence on the scale of any impacts. See Annex 1 where some of the impacts of introducing this legislation are considered.

Question 3: Do you consider that a ban on wild animals in travelling circuses could have an impact on circuses, or on other related industries? What would the impact be and why?

2.4 Wild Animals in Travelling Circuses (Wales) Bill

Section 1 sets out the offence

An offence is committed if a person who is the operator of a travelling circus uses, or causes or permits another person to use a wild animal in the travelling circus. A wild animal is used if the animal performs or is exhibited.

Question 4: Do you agree with the proposed offence?

Question 5: Do you agree that the offence should apply to the travelling circus operator even if the operator may not be the person using the wild animal?

²³ Welsh Government, Children and young people < <https://gov.wales/topics/people-and-communities/people/children-and-young-people/?lang=en> >

Section 2 explains the meaning of “operator”

In this draft Bill, “operator” means the owner of the travelling circus or a person other than the owner with overall responsibility for the operation of the travelling circus and, where neither is present, the person in the United Kingdom with overall responsibility for the operation of the travelling circus.

Question 6: Do you agree with the definition of “operator”?

Section 3 explains the meaning of “wild animal”

In this draft Bill, a “wild animal” means an animal of a kind which is not commonly domesticated in the British Islands. This is similar to definitions of “wild animal” in the Zoo Licensing Act 1981 (section 21(1)) and the Wild Animals in Travelling Circuses (Scotland) Act 2018 (section 2(1)).

Section 3(2) describes an animal as being of a kind that is domesticated if the behaviour, life cycle or physiology of animals of that kind has been altered as a result of the breeding or living conditions of multiple generations of animals of that kind being under human control. This is the same as the definition in the Wild Animals in Travelling Circuses (Scotland) Act 2018 (section 2(2)) and similar to that used in Explanatory Notes to the Animal Welfare Act 2006 (section 2, para 14)²⁴.

In this draft Bill, “animal” has the meaning given by Animal Welfare Act 2006.

Question 7: Do you agree with the definition of “wild animal”?

Question 8: Do you agree with the inclusion of section 3(3) which would allow for regulations to be made to specify kinds of animal that are, or are not, to be regarded as wild? Regulations would be made by Welsh Ministers (see section 7 of the draft Bill).

Section 4 sets out the meaning of “travelling circus”

In this draft Bill, a “travelling circus” means a circus which travels from one place to another for the purpose of providing entertainment at those places. The definition recognises there will be periods when a travelling circus does not travel.

Question 9: Do you agree with the definition of “travelling circus”?

Question 10: Do you agree with the inclusion of section 4(4) which would allow for regulations to be made to specify types of undertaking, act, entertainment or similar which is to be regarded as a travelling circus? Regulations are to be made by Welsh Ministers (see section 7 of the draft Bill).

²⁴ Explanatory Notes to the Animal Welfare Act 2006
<<http://www.legislation.gov.uk/ukpga/2006/45/notes/division/7/1/2>>

Section 5 relates to the powers of enforcement

The Schedule makes provision about powers of enforcement.

Question 11: Do you agree with the enforcement provisions detailed in the Schedule?

Section 6 relates to offences by bodies corporate etc.

This section applies where an offence under section 1 is committed by (a) a body corporate; (b) a partnership; or (c) an unincorporated association other than a partnership and makes it possible for certain individuals within those organisations to be criminally liable for the offence.

Section 7 relates to regulations made under the draft Bill

Regulations under the draft Bill, to specify kinds of animals that are, or are not wild, and what is regarded to be a travelling circus, are to be made by the Welsh Ministers. A power to make regulations would be exercised by statutory instrument subject to annulment in pursuance of a resolution of the National Assembly for Wales (“negative procedure”²⁵). See questions 8 and 10.

2.6 Welsh language

Question 12: We would like to know your views on the effects the Wild Animals in Travelling Circuses (Wales) Bill would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Question 13: Please also explain how you believe the proposed Wild Animals in Travelling Circuses (Wales) Bill could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

2.7 Are there any related issues we have not specifically addressed?

Question 14: We have asked a number of specific questions. Please tell us about any related issues which we have not specifically addressed.

Important: Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous please clearly indicate so in your response.

²⁵ National Assembly for Wales, Subordinate Legislation <<http://www.assembly.wales/en/bus-home/bus-legislation/sub-leg/Pages/sub-leg.aspx>>

Annex 1 - Summary of the impacts

Wild Animals in Travelling Circuses (Wales) Bill

Policy objective

The policy objective is to introduce primary legislation to ban the use of wild animals in travelling circuses in Wales, based on ethical grounds. The ethical argument has been set out in the consultation.

Travelling circuses have toured the United Kingdom for over two hundred years and will continue to be welcome in Wales, provided they do not use wild animals. It might seem disproportionate to ban the use of wild animals in travelling circuses, given the small and declining number of animals involved. However, a ban will send a clear message that the people of Wales believe this practice to be an outdated notion and ethically unacceptable.

A comprehensive assessment of the impacts of banning the use of wild animals in travelling circuses in Wales will be completed following consultation. The purpose of this summary of the impacts is to provide some additional facts and figures on the circus industry and highlight where we believe there may be impacts from banning the use of wild animals in travelling circuses. We make some assumptions which we hope will be better informed following consultation.

Background

The number of travelling circuses using wild animals and the number of wild animals in those travelling circuses has greatly declined in recent years. According to Animal Defenders International, in 1997, there were 124 'exotic' animals touring with UK circuses, including a rhinoceros, 16 elephants, 15 lions and 16 tigers²⁶ in 20 circuses.²⁷ In 2005 the number of 'exotic' animals had reduced to 47. According to a Defra 2012 Impact Assessment there were 40 wild animals in three travelling circuses in the UK.²⁸ There are now just two circuses touring with wild animals; both are based in England and licensed under The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012.²⁹

According to a Defra Post-Implementation Review of the Regulations, the two circuses have contained a total of between 16 and 28 wild animals at any one time since the Regulations came into force in 2013.³⁰ Species kept include zebra, camel, zebu (a type

²⁶ Animal Defenders International (2006). *Animal in Travelling Circuses: The Science on Suffering* <http://www.stopcircussuffering.com/wp-content/uploads/2014/08/UK-Science-on-Suffering-low_020311.pdf>

²⁷ Animal Defenders International (2004). *Animal Circuses and the Animal Welfare Bill* <<http://www.stopcircussuffering.com/wp-content/uploads/2014/08/circusesawblowres.pdf>>

²⁸ Defra, Ending the use of wild animals in travelling circuses, Impact Assessment (2012) <http://www.legislation.gov.uk/ukia/2012/41/pdfs/ukia_20120041_en.pdf>

²⁹ The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 <<https://www.legislation.gov.uk/ukdsi/2012/9780111527832/contents>>

³⁰ Defra, The Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012: Post Implementation Review 2018, January 2018 <<https://www.gov.uk/government/publications/the-welfare-of-wild-animals-in-travelling-circuses-england-regulations-2012-post-implementation-review>>

of cattle), reindeer, raccoon, fox and macaw, in addition to domestic species. Both circuses regularly visit Wales and have visited this year. It is presently possible for circuses from mainland Europe to visit Wales.

According to Defra's 2012 Impact Assessment, figures provided to Defra in 2007 estimated that approximately 320,000 people attended the four travelling circuses using wild animals. In 2011, 153,000 people attended the three travelling circuses using wild animals. In 2011, ticket prices varied from £7.50 to £20. In 2012, according to a Scottish Government Business and Regulatory Impact Assessment, prices ranged from £5.99 to £29.00.³¹ In 2018, tickets advertised on the websites and/or social media accounts of the two circuses still using wild animals varied from £5 to £20.

The majority of travelling circuses do not use wild animals. According to the Association of Circuses Proprietors of Great Britain there are more than thirty circuses touring Great Britain every year.³² In 2018, tickets advertised on the websites and/or social media accounts of fifteen of these circuses, some of which use domesticated animals, ranged from £7.15 to £33.20, with the average standard adult ticket price being just over £20. This suggests there is no 'premium' to be had from using wild animals; circuses are able to successfully operate without them and the absence of wild animals does not detract from the experience. If a ban on the use of wild animals in travelling circuses is implemented, following a period of transition, the two circuses currently using wild animals should be able to continue to successfully tour in Wales.

According to PETA UK, in July 2017 eight European Union Member States had banned the use of wild animals in circuses.³³ The Republic of Ireland and Scotland implemented bans in 2018. A number of other countries have banned the use of certain species and there are many where local and regional restrictions apply. The UK Government intends to ensure a legislative ban on the use of wild animals in travelling circuses is in place by the time the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012 expire in January 2020.

In Wales, some Local Authorities prohibit circuses that use wild animals from performing on Local Authority land.

Economic Considerations

The direct impact of banning the use of wild animals in travelling circuses would be expected to fall on the two England-based travelling circuses which currently use wild animals.

The responses to three Government consultations suggest overwhelming support for a ban on the use of wild animals in travelling circuses.^{34 35 36} However, it cannot be

³¹ Scottish Government, Business and Regulatory Impact Assessment, Wild Animals in Travelling Circuses (Scotland) Bill, May 2017 <<https://beta.gov.scot/publications/business-regulatory-impact-assessment-bria-wild-animals-travelling-circuses-scotland/>>

³² Association of Circuses Proprietors of Great Britain <<http://www.circusgb.com/index.html>>

³³ PETA UK <<https://www.peta.org.uk/blog/these-17-countries-banned-wild-animal-circuses/>>

³⁴ Welsh Government Consultations, Mobile Animal Exhibits <<https://beta.gov.wales/mobile-animal-exhibits>>

ignored that some people may attend circuses specifically to see animals, including wild animals, perform. With no performing wild animals or wild animals on display, it is possible that some circuses could lose their appeal and fewer people will attend. Conversely, it is possible (although we have no supporting evidence) that the absence of wild animals in travelling circuses will improve the public perception of the industry and contribute to increased popularity, over time.

Types of spending by members of the public attending circuses include spending to attend the event e.g. tickets, parking; spending on merchandise and food/drink whilst at the event; and, spending on other consumables, before and after the event e.g. transport costs and food/drink.

Visiting circuses will also spend in local communities. Little is known of the amounts involved, but presumably they will pay ground rental, purchase animal feed or bedding (if not brought with them) and any veterinary care required. Other potential spending could include local advertising and the hiring of casual labour. Any local spend by travelling circuses which relates specifically to wild animals is expected to be lost going forward.

Travelling circuses would not be required to give up ownership of their wild animals; they may elect to retain ownership and house them at a permanent base. Therefore, there will not necessarily be a reduction in the costs incurred by the circuses for caring for the animals. Where a circus did choose to give up ownership of their wild animals, any reduction in the costs incurred by the circus would be expected to be broadly matched by an equivalent increase in costs to the organisation or organisations which re-homed the animals.

The above impacts are difficult to quantify and we would welcome evidence on the scale of any impacts on travelling circuses and local communities.

³⁵ The National Archives, Defra, Consultation on the use of Wild Animals in Circuses, March 2010 <<http://webarchive.nationalarchives.gov.uk/20101109175937/http://www.defra.gov.uk/corporate/consult/circus-wild-animals/>>

³⁶ Scottish Government, Should the use of wild animals in travelling circuses be banned in Scotland?, Consultation Analysis, May 2015 <<https://www.gov.scot/Resource/0048/00480385.pdf>>

Annex 2 – Consultation Response Form

The draft Wild Animals in Travelling Circuses (Wales) Bill

Please return this form to reach the Welsh Government no later than **28 November 2018**. The email address for responses or queries is:

WildAnimalsInTravellingCircusesBill@gov.wales

Postal responses should be sent to:

Wild Animals in Travelling Circuses (Wales) Bill Team
Office of the Chief Veterinary Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

This form can be downloaded from the Welsh Government consultation webpage here:
<https://beta.gov.wales/consultations>

Your name:	
Organisation (if applicable):	
Email Address:	
Your address:	

Responses to consultations may be made public on the internet or in a report. If you would prefer your response to be anonymised, please tick here:

Question 1: Do you agree with our proposal to introduce legislation that would make it an offence for a wild animal to be used in a travelling circus?

YES..... NO.....

Comments:

Question 2: Do you agree banning the use of wild animals in travelling circuses will have a positive impact on the attitudes of children and young people towards animals? Do you have any evidence to support your view that you would like to share with us?

YES..... NO.....

Comments:

Question 3: Do you consider that a ban on wild animals in travelling circuses could have an impact on circuses, or on other related industries? What would the impact be and why?

YES..... NO.....

Comments:

Question 4: Do you agree with the proposed offence?

YES..... NO.....

Comments:

Question 5: Do you agree that the offence should apply to the travelling circus operator even if the operator may not be the person using the wild animal?

YES..... NO.....

Comments:

Question 6: Do you agree with the definition of “operator”?

YES..... NO.....

Comments:

Question 7: Do you agree with the definition of “wild animal”?

YES..... NO.....

Comments:

Question 8: Do you agree with the inclusion of section 3(3) which would allow for regulations to be made to specify kinds of animal that are, or are not, to be regarded as wild? Regulations would be made by Welsh Ministers (see section 7 of the draft Bill).

YES..... NO.....

Comments:

Question 9: Do you agree with the definition of “travelling circus”?
YES..... NO.....
Comments:

Question 10: Do you agree with the inclusion of section 4(4) which would allow for regulations to be made to specify types of undertaking, act, entertainment or similar which is to be regarded as a travelling circus? Regulations are to be made by Welsh Ministers (see section 7 of the draft Bill).
YES..... NO.....
Comments:

Question 11: Do you agree with the enforcement provisions detailed in the Schedule?
YES..... NO.....
Comments:

Question 12: We would like to know your views on the effects the Wild Animals in Travelling Circuses (Wales) Bill would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Comments:

Question 13: Please also explain how you believe the proposed Wild Animals in Travelling Circuses (Wales) Bill could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Comments:

Question 14: Any other general comments or observations?

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.

Comments: